

Notice of Allowability

Application No.

09/871,118

Examiner

Jessica L. Rossi

Applicant(s)

DELUCIA ET AL.

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Interview Summary, 7/22/05.
2. ☒ The allowed claim(s) is/are 1,2,4,5,24 and 27-29.
3. ☒ The drawings filed on 26 January 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>7/22/05</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Petersen on 7/22/05.

2. The application has been amended as follows:

Claims 6-10: cancelled.

3. The following is an examiner's statement of **reasons for allowance**:

With respect to claims 1, 5, 24 and 27, the prior art fails to teach or suggest a method for producing a composite material for accommodating passage of **viscous** fluids wherein the method includes shrinking the **film** layer relative to the first layer, thereby forming a plurality of **fiber loop pores** in the first layer and **shrinking** the **openings** through the **film** layer to form a plurality of pores **smaller** than the **fiber loop pores**.

The rejections set forth in the previous office action using Jacobs (US 5814178) as a primary reference are withdrawn in light of Applicant's arguments presented on p. 6-7 of the remarks. Specifically, the present claims now state that the method produces a composite material for accommodating passage of viscous fluids, where such language is taken to exclude a composite that can only accommodate the passage of fluids that are not viscous (i.e. air, water vapor, etc.).

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The rejections set forth in the previous office action using the Zelazoski reference (GB 2284786) are withdrawn in light of Applicant's arguments presented on p. 7-8 of the remarks. Specifically, the present claims now state that the openings through the second layer are shrunk, whereas the slits in the second layer of Zelazoski are opened upon shrinking of the second layer relative to the first layer.

The following references are newly cited and considered to be pertinent to the subject matter of the present invention:

It is known in the art to make a composite material for accommodating passage of viscous fluids by bonding a liquid permeable nonwoven web to a film layer having openings that render it liquid permeable, as taught by Mohammed et al. (WO 93/09741; p. 8, 1st paragraph; p. 9, 2nd paragraph; p. 10, 3rd paragraph;). However, the reference fails to teach or suggest shrinking the film relative to the nonwoven and therefore fails to teach or suggest shrinking the film relative to the nonwoven, thereby forming a plurality of fiber loop pores in the first layer and shrinking the openings through the film layer to form a plurality of pores smaller than the fiber loop pores.

It is known in the art to make a composite material for accommodating passage of viscous fluids by heat bonding a liquid permeable nonwoven web to a film layer where after bonding the heat causes the film to shrink such that the film draws away from the open areas or spaces between the fibers comprising the nonwoven with the result that small micropores are caused to open in the film in these areas, as taught by Endres (US 3441021; column 1, lines 12-15; column 4, lines 1-13). The reference fails to teach or suggest shrinking the film relative to the nonwoven such that shrinking of openings in the film takes place.


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4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **571-272-1223**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine R. Copenheaver can be reached on 571-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jessica L. Rossi
Primary Examiner
Art Unit 1733